

MINUTES OF A REGULAR MEETING  
OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST

The regular meeting of the City Council of the City of Lake Forest held December 16, 2014, at the Lake Forest City Council Chamber, 25550 Commercentre Drive, Lake Forest, California, was called to order at 5:55 PM.

ROLL CALL:	Council Members:	Dr. Jim Gardner Andrew Hamilton Scott Voigts
	Mayor Pro Tem:	Adam Nick
	Mayor:	Dwight Robinson
	City Manager:	Robert C. Dunek
	City Attorney:	Scott C. Smith
	City Clerk:	Stephanie D. Smith

CLOSED SESSION

Mayor Robinson convened the Regular Meeting at 5:55 p.m. City Attorney Smith reported that there was a need to add an agenda item to Closed Session, based on the City Attorney's and Special Counsel's determination that 1) Special Counsel needs to provide Council advice relating to significant exposure to litigation and 2) that advice cannot wait until a future meeting.

MOTION: On motion by Council Member Voigts, second by Council Member Gardner, the City Council added the following to the agenda as Item 2A:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATION LITIGATION  
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9.

Number of potential cases: 1

MOTION UNANIMOUSLY CARRIED.

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Pursuant to Government Code Section 54956.8  
Property: APN#: 617-421-01  
Agency negotiators: City Manager, Assistant City Manager  
Negotiating parties: City Manager, Assistant City Manager and American Golf Corporation  
Under Negotiation: Price and Terms of Payment

2. CONFERENCE WITH LEGAL COUNSEL- ANTICIPATED LITIGATION  
Pursuant to Government Code Section 54956.9(d)(4)  
Number of potential cases: 1
- 2A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATION LITIGATION  
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of  
Section 54956.9.  
Number of potential cases: 1

ACTION: Conducted Closed Session.

RECESS: City Council recessed from Closed Session at 6:42 p.m. for the purpose of conducting regular City business.

RECONVENE: City Council reconvened with all members present at 7:01 p.m. to continue regular City business.

#### PUBLIC SESSION

INVOCATION: The Invocation was led by Bishop Eric Smith, Church of Jesus Christ of Latter-day Saints, Lake Forest Ward.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance to the Flag of our Country was led by Council Member Gardner, who deferred to Boy Scouts representing Troop 1210.

#### CLOSED SESSION REPORT:

City Attorney Smith reported that the City Council, in Closed Session, approved a Settlement Agreement related to a nuisance abatement action.

MOTION: On motion by Council Member Voigts, second by Council Member Hamilton, the City Council approved a Settlement Agreement with Gloria Maddox, relative to a nuisance abatement action at 21162 Gladiolos Way. MOTION CARRIED UNANIMOUSLY.

#### PRESENTATIONS:

3. EMPLOYEE SERVICE AWARDS submitted by Deputy City Manager/Director of Management Services.
4. INTRODUCTION OF NEW EMPLOYEE - DAVID ROGERS, P.E., T.E., PUBLIC WORKS MAINTENANCE MANAGER submitted by Director of Public Works/City Engineer.

ACTION: Director of Public Works/City Engineer Wheeler introduced David Rogers as the Public Works Maintenance Manager in the Public Works Department.

5. INTRODUCTION OF NEW EMPLOYEE - CHRISTINE GROVES, PUBLIC WORKS MANAGEMENT ANALYST submitted by Director of Public Works/City Engineer.

ACTION: Director of Public Works/City Engineer Wheeler introduced Christine Groves as the Management Analyst in the Public Works Department, Maintenance Division.

6. PRESENTATION OF "TURNING RED TAPE INTO RED CARPET" AWARD FROM THE ORANGE COUNTY BUSINESS COUNCIL FOR THE CITY'S G.R.O.W. (GROWING AND RETAINING OUR WORKFORCE) PROGRAM submitted by Assistant City Manager.

ACTION: The City Council received the presentation from Matt Peterudo, Vice President for Economic Development, Orange County Business Council.

#### CITY COUNCIL CEREMONIAL ITEMS

7. RESOLUTION COMMENDING MAYOR submitted by City Clerk.

MOTION: On motion by Council Member Voigts, second by Council Member Hamilton, the City Council adopted Resolution No. 2014-48 entitled; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, COMMENDING COUNCIL MEMBER DWIGHT ROBINSON ON HIS TERM AS MAYOR FOR 2014. MOTION UNANIMOUSLY CARRIED.

8. COMMENTS BY OUTGOING MAYOR submitted by City Clerk.

ACTION: Mayor Robinson offered his outgoing comments, thanking his family, City staff, and his colleagues on the Council and Commissions. He noted the opening of 110 new businesses during the year, as well as the grand opening of the new Lake Forest Sports Park and Recreation Center.

#### REPORT FROM STUDENT LIAISON:

Joseph Hana, Student Liaison, El Toro High School, did not present a report.

#### PUBLIC COMMENTS:

The following members of the public offered comments:

Marcia Rudolph, Lake Forest resident, Director, Orange County Vector Control Board, spoke regarding mosquito vectors. She also spoke regarding the anniversary of the passing of Deputy Darren Robbins, on Christmas Day, 1995.

Council Member Gardner asked if we could memorialize this on the website and include a page for fallen heroes. City Attorney Smith suggested revisiting this request during Council Member Comments.

Gregory Sprague, Lake Forest resident, spoke regarding Police Services. He said he spoke with the Federal Bureau of Investigation regarding an incident in Lake Forest which he feels is not being investigated and prosecuted. He thanked the Council for helping to provide the incident report from the event he spoke about.

Vincent Burke, Lake Forest resident, spoke regarding Council Member Gardner's public comments made during the December 2, 2014 City Council meeting.

Adria Lewis, Lake Forest resident, spoke regarding internal complaints she has made against the Police Services department that she does not feel have been resolved.

Doug Waters, Mission Viejo resident, spoke against the Portola Center development.

#### CONSENT CALENDAR - WARRANT REGISTER: (Item No. 9)

9. CERTIFICATION OF WARRANT REGISTER submitted by Director of Finance/City Treasurer.

MOTION: It was moved by Council Member Voigts, second by Council Member Hamilton, to approve the warrant register in the amount of \$1,056,018.41 as submitted. MOTION UNANIMOUSLY CARRIED.

#### CONSENT CALENDAR - MISCELLANEOUS: (Item Nos. 10-16)

MOTION: On motion by Council Member Voigts and second by Council Member Gardner, the City Council approved Consent Calendar Item Nos. \*10, \*12, and \*14-16. MOTION UNANIMOUSLY CARRIED.

- \*10. WAIVE READING OF ORDINANCES AND RESOLUTIONS submitted by City Clerk.

RECOMMENDED ACTION: Waived reading, by title only, of all Ordinances and Resolutions. Said Ordinances and Resolutions which appear on the public agenda were determined to have been read by title and further reading waived.

- \*12. SECOND AMENDMENT TO AGREEMENT WITH GMU GEOTECHNICAL, INC., FOR ON-CALL GEOTECHNICAL SERVICES submitted by Director of Public Works/City Engineer.

ACTION: 1. Approved the Second Amendment to the Agreement with GMU

Geotechnical, Inc., for on-call geotechnical services. 2. Authorized the Mayor to sign, and the City Clerk to attest, the Second Amendment to the Agreement with GMU Geotechnical, Inc., substantially in the form attached.

- \*14. NOTICE OF COMPLETION FOR THE BAKE PARKWAY RESURFACING PROJECT (PW 2013.04A) submitted by Director of Public Works/City Engineer.

ACTION: 1. Found that R.J. Noble Company, of Orange, California has completed construction of the Bake Parkway Resurfacing Project (PW2013.04A). 2. Approved the Notice of Completion and authorized the Mayor to execute the document on behalf of the City. 3. Authorized City Clerk to submit Notice of Completion for recordation to the Office of the County Recorder of Orange County within ten days of the City Council approval, as required by Section 3093 of the California Civil Code. 4. Authorized the release of the five percent retention payment to the contractor in the amount of \$20,785, thirty days after the recording of the Notice of Completion provided no Stop Notices are on file with the City preventing the release of the retention payment.

- \*15. NOTICE OF COMPLETION FOR THE SLURRY SEAL PROJECT ON RESIDENTIAL STREETS IN FOOTHILL RANCH submitted by Director of Public Works/City Engineer.

ACTION: 1. Found that Roy Allan Slurry Seal, Inc. has completed construction of the Slurry Seal Project on Residential Streets in Foothill Ranch (PW2013.04B) and Park Parking Lots. 2. Approved the Notice of Completion and authorized the Mayor to execute the document on behalf of the City. 3. Authorized City Clerk to submit Notice of Completion for recordation to the Office of the County Recorder of Orange County within ten days of the City Council approval, as required by Section 3093 of the California Civil Code. 4. Authorized release of the five percent retention payment to the contractor in the amount of \$48,941, thirty days after the recording of the Notice of Completion, provided no Stop Notices are on file with the City preventing release of the retention payment.

- \*16. CITY FINANCIAL REPORTS - QUARTER ENDED SEPTEMBER 30, 2014 submitted by Director of Finance/City Treasurer.

ACTION: Received and filed the reports.

#### PULLED CONSENT CALENDAR ITEMS:

11. MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL HELD ON NOVEMBER 18, 2014, submitted by City Clerk.

This item was removed from the Consent Calendar for separate consideration by Council Member Gardner, who wished to abstain.

MOTION: On motion by Council Member Voigts, second by Mayor Pro Tem Nick, the City Council approved the Minutes of the Regular Meeting of the City Council held on November 18, 2014. MOTION CARRIED with Council Members Gardner and Hamilton abstained.

13. MONTHLY TREASURER'S REPORT - NOVEMBER 2014 submitted by Director of Finance/City Treasurer.

This item was removed from the Consent Calendar for separate consideration by Council Member Hamilton.

Council Member Hamilton requested consensus to agendize a discussion on the City's Investment Policy, including the reserve standards.

CONSENSUS: The City Council directed staff to agendize review of the City's Investment Policy.

MOTION: On Motion by Council Member Voigts, second by Mayor Pro Tem Nick, the City Council received and filed the Treasurer's Report, November 2014. MOTION UNANIMOUSLY CARRIED.

The following item was heard out of order.

#### DISCUSSION/ACTION ITEMS:

19. 2015 LEGISLATIVE PLATFORM submitted by City Manager.

City Manager Dunek introduced Senior Management Analyst Carlo Tomaino, who presented the staff report dated December 16, 2014. Following his presentation, Mr. Tomaino introduced David Jones, representative of Emanuels Jones, Inc., a professional lobbyist firm under contract with the City. Mr. Jones provided an overview of the legislative platform and gave insight into the upcoming legislative year. He reviewed recent changes in the state legislature, including a change from a Democratic controlled legislature. He referenced how the low voter turnout in the recent gubernatorial election impacts the initiative process, reducing the number of signatures required to put something on the ballot from 500,000 to 370,000. The University of California tuition hikes will be a subject of concern by the governor, plus realignment of inmates and the issue of medical marijuana. Mr. Jones noted State revenues are up approximately \$1 billion over the adopted budget in June.

Council discussion ensued.

Council Member Voigts requested consensus on adopting a Resolution in support of Proposition 13.

CONSENSUS: Staff will agendize consideration of a Resolution in support of Proposition 13 at the January 6, 2015 Council Meeting.

City Manager Dunek clarified the Legislative Platform provides a framework for staff when dealing with Bills that require a City position between regularly scheduled Council Meetings. Senior Management Analyst Tomaino confirmed that under normal circumstances the City Council is asked for specific direction on pertinent Bills on a case by case basis.

MOTION: It was moved by Council Member Voigts, second by Council Member Hamilton, to adopt the Legislative Platform as presented.  
MOTION UNANIMOUSLY CARRIED.

#### PUBLIC HEARING(S):

17. APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY FOR THE MOBIL GAS STATION LOCATED AT 21721 LAKE FOREST DRIVE submitted by Director of Development Services.

Mayor Robinson opened the Hearing. City Attorney Smith provided procedural remarks regarding representation and constitutional due process, collectively referred to as stemming from the "Nightlife Quintero" group of cases.

City Attorney Smith introduced special counsel Jacqueline Vinaccia who assumed her seat at the staff table. City Attorney Smith moved to the general audience.

Special Counsel Vinaccia discussed the disclosure process, instructing each council member to disclose individually any contact or matter related to the item.

Mayor Robinson disclosed he appealed the decision as a member of the public but has no personal connection with the application and has predetermined opinion as to the outcome of the matter. He can render a decision on an impartial basis. He commented that at a previous Council Meeting a member of the public indicated he may have had some connection to the gas station during the election, but he reiterated he has never had communication with the owner regarding the election.

Mayor Pro Tem Nick stated he is recusing himself from the proceedings to make sure there is no appearance of impropriety. Mayor Pro Tem Nick left the dais and moved to the general audience.

Council Member Voigts stated he used to work at the subject Mobil Gas Station while he was in high school, and the owner did put a banner up for his opponent during the recent election.

Council Member Hamilton disclosed he was a member of the Planning Commission during the approval process. As this is a de novo hearing, he stated he is starting over making a new decision. He stated he is not tied to his vote from the Planning Commission.

Council Member Gardner disclosed he had no discussions with the appellant, has no biases at play, and can decide with an open mind. However, he reported that he and Special Counsel have discussed this item at length, and as a result, he is recusing himself from participating on this item at this time. Council Member Gardner left the dais and moved to the general audience.

Special Counsel Vinaccia reported a majority vote would be two out of the three remaining. City Manager Dunek introduced Director of Development Services Ackerman who presented the staff report dated December 16, 2014.

Dr. Cynthia Matthews, representing the applicant, spoke in favor of the determination of Public Convenience or Necessity ("PCN"). She requested clarification that the Mayor can be impartial. The Mayor stated that he appealed the item so that the Council was consistent in their review of PCNs.

Dr. Matthews spoke regarding the convenience of adding alcohol sales to the Mobil station. She reviewed her slide presentation, and spoke regarding the demographics of Lake Forest supporting the convenience finding. The wine would be more expensive, with corks and not screw tops, and beer being craft brew and no single malts.

She reviewed other census tracts and how many uses are located there.

Council discussion ensued.

The following members of the public offered comment:

Dave Bass, Lake Forest resident, complimented Council Member Hamilton on his disclosure, but feels that Council Member Hamilton should be out of the deliberations. He stated his belief there is no real



difference between purchasing alcohol at the nearby 7-11 or the gas station. He does not feel getting gas and getting alcohol at the same time is a good mixture. Mr. Bass stated there is no enforcement action in place, and feels the city needs an enforcement policy to ensure any conditions placed as part of the PCN are enforced. He referenced the recent election and expressed his opinion the owner violated the sign ordinance.

Mary Pickard, Lake Forest resident, spoke against the PCN determination. She stated there are plenty of locations to purchase alcohol.

Robert De Almeida, Lake Forest resident, referenced his professional experience as an urban planner. He discussed the interior dimensions of the shop, and stated his belief the sales counter and area is very small. He feels the applicant has failed to demonstrate it is a public benefit and spoke in opposition to the PCN.

Council discussion ensued.

Council Member Hamilton stated his belief the lack of a policy from the Council was frustrating during the deliberation process as a Commissioner. He thinks eventually the City Council needs to draft a policy. He expressed interest in adding a Conditional Use Permit requirement for alcohol sales. Director Ackerman indicated that there have been many changes to the zoning code that involve serving or selling of alcohol that are now covered by CUPs. There is no blanket CUP requirement for alcohol sales. Responding to Council inquiring as to whether that could be changed, Ms. Ackerman responded yes.

Council Member Voigts inquired if the service station and smog service would remain at the location. The applicant responded yes.

Mayor Robinson asked about the process for the ABC Board to accept or reject the City's findings. Special Counsel Vinaccia stated the ABC Board was not required to follow the City's recommendations, however she did not have the specific procedures for how ABC determines their course of action. Mayor Robinson expressed difficulty understanding the convenience.

Council Member Hamilton asked if a CUP would help craft conditions. Special Counsel Vinaccia stated that CUPs allow all kinds of conditions. She stated, however adding this process would require a lot of specific research and there is the question about whether it could be placed retroactively.

Mayor Robinson moved approval of the PCN, with the findings to include single sale prohibition, and voluntary agreement from the applicant to stick to the current layout and 14% of floor space. MOTION FAILED for lack of second.

Council Member Voigts moved continuance of the hearing in order to craft a policy that covers PCNs decisions throughout Lake Forest.

Council discussion ensued.

Dr. Matthews, representing the applicant, requested the Council make a determination at this time.

City Attorney Smith commented the motion is to consider this open ended, however noted the Council may want to continue it to a date specific. He cited the length of time to place CUP requirements into the Municipal Code, the question of whether it can be applied retroactively to this particular application, and the question of whether the ABC will consider the applicant's stipulations in making their decision and whether the ABC would have the ability to enforce the applicant's stipulations as questions that need to be researched before the item returns for hearing.

Special Counsel Vinaccia stated it does seem appropriate to continue this to a date certain.

MOTION: It was moved by Council Member Voigts, second by Council Member Hamilton to continue this item to the February 17, 2015 City Council meeting, providing staff with time to research the items delineated by City Attorney Smith. MOTION CARRIED with Council Member Voigts and Council Member Hamilton in favor, Mayor Robinson opposed, and Mayor Pro Tem Nick and Council Member Gardner recused.

18. PUBLIC HEARING TO CONSIDER STREET NAMES FOR PHASE 2 OF THE SHEA / BAKER RANCH submitted by Director of Development Services.

Mayor Robinson opened the Public Hearing. City Manager Dunek introduced Director of Development Services Ackerman who presented the staff report dated December 16, 2014.

The public offered no comments.

Mayor Robinson closed the Public Hearing.

MOTION: On motion by Council Member Hamilton, second by Council Member Voigts, the City Council: 1. Found that the proposed action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15060(c)(3) because it is not a project as defined in Section 15378 because it has no potential for resulting in physical change to the environment, directly or indirectly; and 2. Adopted Resolution No. 2014-49 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, APPROVING THE LIST OF STREET NAMES TO BE USED FOR A PORTION OF THE SHEA BAKER RANCH ASSOCIATES DEVELOPMENT APPROVED BY THE CITY COUNCIL AS TENTATIVE TRACT MAP NO. 16466, LOCATED ON BOTH SIDES OF ALTON PARKWAY, SOUTH OF TOWNE CENTRE DRIVE / RANCHO PARKWAY SOUTH AND NORTH OF COMMERCENTRE DRIVE. MOTION UNANIMOUSLY CARRIED.

#### CITY MANAGER'S REPORT:

City Manager Dunek presented no comments.

#### CITY COUNCIL COMMENTS:

Council Member Gardner asked for consensus to agendize an item discussing proposed changes to the City's website, including a page memorializing the loss of Public Safety officers in the line of duty. He expressed disappointment in the number of continued items, commenting he had expected the Tree Management contract award on tonight's agenda. He stated the goal of the Council should be to minimize postponements. Council Member Gardner further stated his belief the RFP Bidding process is not working as effectively as it should, and he prefers to see multiple bidders for each contract award.

CONSENSUS: Staff will agendize a discussion of proposed changes to the City's website, including adding a page recognizing fallen police and fire department personnel.

Council Member Hamilton thanked the Mayor for his dedication over the last year and wished everyone a Merry Christmas. He sought and obtained Council consensus on the following three items:

CONSENSUS: Staff will agendize for discussion at the January 6, 2015 Council Meeting review of the Commissioner application process.

CONSENSUS: Staff will agendize a discussion of the City's membership in the League of California Cities at a future City Council meeting.

CONSENSUS: Staff will agendize a discussion on establishing a Policy regarding determinations of Public Convenience or Necessity at a future City Council meeting.

Council Member Voigts thanked Mayor Robinson for his work throughout the year. He noted attending the Chamber of Commerce holiday party, and commented on the venue, the Wine Artist. He concluded by wishing everyone a happy holiday.

Mayor Pro Tem Nick presented no comments.

Mayor Robinson noted he senses angst in the delay of some items, but he believes some of the challenge for the staff is understanding what a majority of the Council wants them to move forward with. He appreciates the direction the Council took when Council decided they wanted two members to put items on the agenda, but now acknowledges it may cause confusion when only two members are asking that it be put on the agenda. He sought consensus to revisit the process for placing items on the Council agenda. He concluded his remarks by stating it was a pleasure serving as Mayor and he wished everyone a Happy New Year.

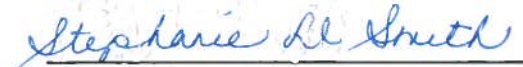
CONSENSUS: Staff will agendize discussion of the process for placing items on the Council agenda for consideration at a future City Council meeting.

CONTINUED CLOSED SESSION:


There was no continued Closed Session.

ADJOURNMENT: The regular meeting of the Lake Forest City Council was adjourned at 10:21 p.m.

Respectfully submitted:

  
STEPHANIE D. SMITH, MMC  
CITY CLERK

APPROVED:

  
DWIGHT ROBINSON  
MAYOR